IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA   :

                                            :

        v.   :   Criminal No. DKC 13-0492-001

                                            :

ANTHONY TORELL TATUM   :

                                            :

MEMORANDUM OPINION AND ORDER

Pending before the court is a motion filed under Fed. R. Civ. P. Rule 60(b)(3) filed by Defendant Anthony Tatum alleging that the prosecutor's conduct was so egregious that the court should find "fraud of the Court, and vacate the plea and permit Tatum to proceed to trial." For the reasons that follow, Defendant's motion will be denied.

On December 31, 2014, Defendant Tatum pled guilty to conspiracy to distribute and possess with intent to distribute 5 kilos or more of cocaine and 100 grams or more of heroin, possession of a firearm in furtherance of a drug trafficking offense, and conspiracy to commit money laundering. He was sentenced to 324 months imprisonment. Judgment was entered on July 23, 2015, and he filed a notice of appeal on July 29. The United States Court of Appeals affirmed the judgment of this court on June 10, 2016 (ECF No. 355) and the mandate issued November 3, 2016 (ECF No. 391).

On August 4, 2016, Defendant filed the instant motion based on Fed.R.Civ.P. 60(b) requesting that his plea and subsequent sentence be vacated and that he be permitted to proceed to trial.   Fed.R.Crim.P. 11(e) recites "After the court imposes sentence, the defendant may not withdraw a plea of guilty or *nolo contendere*, and the plea may be set aside only on direct appeal or collateral attack."   Thus, Rule 60(b), which applies to civil cases, is inapplicable.

Accordingly, it is this 7th day of November, 2016, by the United States District Court for the District of Maryland hereby ORDERED that:

1.   Defendant Tatum's motion filed pursuant to Fed. R. Civ. P. 60(b)(3) BE, and the same hereby IS, DENIED;

2.   The clerk IS DIRECTED to mail Mr. Tatum a § 2255 application and instructions; and

3.   The clerk is directed to transmit a copy of this Order directly to Mr. Tatum and transmit to counsel.

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_____/s/_____ _
DEBORAH K. CHASANOW
United States District Judge
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